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[ORIGINAL CIVIL JURISDICTION]
SPROULE, J.
December 11, 1931.

RE CHOP SIN GUAN SENG

[SINGAPORE BANKRUPTCY No. 529 of 1931]

Bankruptcy—Administrator of deceased carrying on business in firm name (Chinese Chop)—Receiving Order against the Chop—Bankruptcy Ordinance Section 3 (3).

An Administratrix carried on a business, of which the deceased had been sole proprietor, using the Chop or name formerly used by the deceased. Judgment was obtained, and a Receiving Order made, against the Chop.

Held, that the bankruptcy proceedings were misconceived and that the Receiving Order must be rescinded.

Motion.

Ang Tong Seng was a contractor who carried on business under the style of Chop Sin Guan Seng. He died intestate and his widow obtained a Grant of Letters of Administration to his estate but she never actually extracted the Grant because, as she said, she could not find a surety for the Administration bond. With the knowledge and acquiescence of the creditors of the deceased she carried on the business under the Chop name for more than two years. Some time after the death of the deceased a creditor brought an action against the Chop and obtained Judgment by default in that action. He then took bankruptcy proceedings and a Receiving Order in bankruptcy was made against the Chop.

The Official Assignee moved to rescind the Receiving Order.

Assistant Official Assignee for Official Assignee.

The whole law of bankruptcy is personal.

There must be a debtor and the act of bankruptcy relied on must be his personal act.

In this case there was no debtor. The chop was part of the estate of the deceased and the widow was an administratrix *de son tort*. *Re Fisher & Sons*, (1912) 2 K.B. 491, 19 Mans. 332.

No adjudication can ever follow on this Receiving Order; so the property can never vest in the Official Assignee or become distributable. The Court does not make abortive Orders.

The Court has always a discretion as to making a Receiving Order. If all the facts had been before the Court this petition would have been dismissed.

C. H. Smith for the petitioning creditor.

The question in *Re Fisher & Sons* (*supra*) was one of partnership. The other cases cited turn on adjudication and are not in point.

The widow was in fact trading under the Chop name and the proceedings are against the Chop and therefore against her.

SPROULE, J.—There is no magical efficacy in a mere name or Chop.

The widow was in an absurd position. If she made any profit it belonged to the estate and if she made a loss she was personally liable for it.

If she has in fact made a loss by carrying on this business since the death of her husband an action can be brought against her personally and no doubt she could be made bankrupt, but not in these proceedings.

The Receiving Order must be rescinded and the Petitioning Creditor must pay the costs.

The Official Assignee in person.

Solicitors for the Respondent—*Donaldson & Burkinshaw.*

[APPELLATE CIVIL JURISDICTION]
MILLS, J.
August 21, 1933.

In the Matter of the Will dated the 5th January, 1928 of SYED ALI BIN SALLAY AL HAMID, deceased.

SYED SALIH BIN ALI BIN SALLAY AL HAMID, Executor of the Will of SYED ALI BIN SALLAY AL HAMID deceased.

vs.

SYED AIDROOS BIN ALI BIN SALLAY AL HAMID & ors.

[SINGAPORE ORIGINATING SUMMONS No. 181 of 1932]

Costs — Right of Attorney-General to receive.

When the Attorney-General is joined as a party to proceedings in which a question arises relating to a public charity, he has the right to receive profit costs if costs are ordered to be paid to him.

Appeal from decision of the Registrar on taxation of a bill of costs.

The above suit related to the construction of a will. Questions arose relating to public charities and the Attorney-General was joined as a party. By an Order of Court dated 15th February, 1933 the costs of all parties were ordered to be taxed as between Solicitor and Client and paid out of the estate. The Attorney-General submitted a bill of costs claiming full profit costs in the manner of an advocate and solicitor employed by an ordinary party. On taxation every item except one out of pocket item was disallowed by the Registrar. The Registrar held that appearance had been wrongly entered as the Solicitor-General had signed the appearance as Solicitor for the Attorney-General; and that the Attorney-General could only recover such costs as he had become personally liable to pay.

Pedlow, Acting Solicitor-General, for the Defendant-Appellant. There is no merit in the first objection. Appearance was entered in the manner laid down by Form 18 of Schedule A of the Civil Procedure Code.

As to the second objection this was definitely overruled by the unanimous decision of the F.M.S. Court of Appeal in *Tham Hing Kwai* vs. *State of*